

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

C.A. NO. 03CV-12216MLW

_____)
EASTERN CONTRACTORS, INC.,)
)
Plaintiff,)
)
v.)
)
CITY OF WORCESTER,)
THOMAS R. HOOVER, City Manager,)
HEERY INTERNATIONAL, INC. and)
THOMAS E. ELLIS, JR.,)
)
Defendants.)
_____)

JOINT MOTION TO MODIFY THE COURT'S SCHEDULING ORDER

Now come the Parties, the Plaintiff, Eastern Contractors, Inc. (hereinafter "Eastern") and the Defendants, City of Worcester (hereinafter "Worcester"), Thomas R. Hoover (hereinafter "Hoover"), Heery International, Inc. (hereinafter "Heery") and Thomas E. Ellis, Jr. (hereinafter "Ellis") and hereby move this Honorable Court to modify the scheduling order as follows:

- (1) The deadline for which to conduct depositions be extended from February 28, 2005 up to and including May 28, 2005, an extension of approximately ninety (90) days;
- (2) The deadline for which Defendants are to provide expert disclosures be extended to March 15, 2005, an extension of approximately forty-five (45) days;
- (3) That all trial expert depositions be completed by June 30, 2005, an extension of approximately ninety (90) days, and

(4) That all dispositive motions, including motions for summary judgment, be extended to August 30, 2005, an extension of approximately ninety (90) days.

In support of this motion, the Parties state as follows:

1. This is the first modification of the scheduling order that the Parties have sought.

2. Mr. Ramesh K. Motwane, president of Eastern, has a pre-arranged planned trip to India, his country of national origin for several weeks commencing at the end of the month of January.

3. Additionally, Eastern's lead counsel, Mr. Edward F. Vena, will be on vacation and other relevant and necessary witnesses and attorneys will be absent during the school vacation week of February 21, 2005.

4. Counsel for Worcester is presently involved in multiple depositions in another matter not relevant to this action and has made the documents of Worcester, which are voluminous, available for inspection and copying after production on the first available date of January 28, 2005.

5. Counsel for Heery and Ellis have multiple engagements and a pending motion under Fed.R.Civ.P.56 relative to these Defendants and other matters pending before Magistrate Alexander.

6. At the present time, there is substantial discovery presently scheduled in February including numerous deposition notices which have been submitted by Eastern to the Defendants as well as to relevant and necessary third parties. In addition, there is outstanding discovery addressed to Eastern from Worcester which is complex, and in the process of being answered. Further, Worcester

noticed Eastern's deposition at a time when Eastern is unavailable through a 30(b)(6) deposition notice.

The parties have endeavored in this factually complex case to proceed with discovery, and are willing to proceed with discovery despite the pendency of a Rule 56 motion. The parties require more time given the schedules of the attorneys and the witnesses and conflicting engagements in order to fully conduct discovery in this case. That discovery also involves the schedules and availability of multiple third parties consisting of municipal contacts, architects and others who have information relevant to the allegations of all parties in this case.

Further, Eastern has complied with the pre-existing schedule of the Court and designated experts who further need to update their expert opinions by review of discovery materials and other matters.

For the foregoing reasons, counsel for all Parties move jointly that this Honorable Court GRANT this Joint Motion to Modify the Court's Scheduling Order.

Respectfully submitted,
EASTERN CONTRACTORS, INC.,
By its attorneys,

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City of Worcester and
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By their attorneys,

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Dated: January 28, 2005